

§ 9301.12

commercial interest of the requester. Requesters may request a waiver in their initial FOIA request letter. Requests for a fee waiver should explain how the information requested contributes to the public's understanding of the operations or activities of the government. In determining whether a fee should be waived, the FOIA Officer may consider whether:

(1) The subject matter specifically concerns identifiable operations or activities of the government;

(2) The information is already in the public domain;

(3) Disclosure of the information would contribute to the understanding of the public-at-large as opposed to a narrow segment of the population;

(4) Disclosure of the information would significantly enhance the public's understanding of the subject matter;

(5) Disclosure of the information would further a commercial interest of the requester; and

(6) The public's interest is greater than any commercial interest of the requester.

[77 FR 34180, June 11, 2012, as amended at 77 FR 38172, June 27, 2012]

Subpart B—Privacy Act

AUTHORITY: Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1896, codified at 5 U.S.C. 552a(f) (agency rules).

§ 9301.12 Purpose and scope.

The purpose of this subpart is to provide certain safeguards for an individual against the invasion of his or her personal privacy by SIGAR. This subpart is promulgated pursuant to the requirements applicable to all federal agencies contained in 5 U.S.C. 552a(f).

§ 9301.13 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by SIGAR contains a record pertaining to them should address their inquiries to the Privacy Officer, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 601-

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3804 or by email to *sigar.pentagon.gencoun.mbx.privacy@mail.mil*. The written inquiry should contain a specific reference to the system of records maintained by the SIGAR listed in the SIGAR Notice of Systems of Records, or it should describe the type of record in sufficient detail reasonably to identify the system of records. Notice of SIGAR systems of records subject to the Privacy Act will be published in the FEDERAL REGISTER, posted on the SIGAR public facing Web site, and copies of the notices will be available upon request to the Privacy Officer when so published. A compilation of such notices will also be made and published by the Office of the Federal Register, in accordance with 5 U.S.C. 552a(f).

(b) At a minimum, the request should contain sufficient identifying information to allow SIGAR to determine if there is a record pertaining to the individual making the request in a particular system of records. In instances when the requester's identification is insufficient to ensure disclosure to the individual to whom the information pertains in view of the sensitivity of the information, SIGAR reserves the right to solicit from the person requesting access to a record additional identifying information.

(c) Ordinarily the person requesting will be informed whether the named system of records contains a record pertaining to such person within 10 days of such a request (excluding Saturdays, Sundays and legal Federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the Privacy Officer will inform the person making the request the reasons for the delay and the date on which a response may be anticipated.

§ 9301.14 Requests for access.

(a) *Requirement for written requests.* An individual desiring to gain access to a record pertaining to him or her in a system of records maintained by SIGAR must submit his or her request in writing in accordance with the procedures set forth in paragraph (b) of

this section. Individuals employed by the SIGAR may make their requests on a regularly scheduled workday (Monday through Friday, excluding legal Federal holidays) between the hours of 9:00 a.m. and 5:30 p.m. Such requests for access by individuals employed by SIGAR need not be made in writing.

(b) *Procedures*—(1) *Content of the request.* The request for access to a record in a system of records shall be addressed to the Privacy Officer at the address cited above, and shall name the system of records or contain a concise description of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of such a statement, if the request is for a record pertaining to the person requesting access which is maintained by SIGAR in a system of records, the request will be considered under both the Privacy Act of 1974 and the Freedom of Information Act, depending on which would allow greater access to the records requested. The request should contain necessary information to verify the identity of the person requesting access (see paragraph (b)(2)(vi) of this section). In addition, such person should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.) as well as any other identifying information contained in and required by the SIGAR Notice of Systems of Records.

(i) If the request for access follows a prior request under § 9301.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence or a copy of the SIGAR response to that request is attached. If the individual specifically desires a copy of the record, the request should so specify under § 9301.4.

(ii) [Reserved]

(2) *SIGAR action on request.* A request for access will ordinarily be answered within 10 days, except when the Privacy Officer determines otherwise, in which case the person making the request will be informed of the reasons for the delay and an estimated date by which the request will be answered. When the request can be answered

within 10 days, it shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the systems of records maintained by SIGAR;

(ii) A statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the person requesting access is unable to meet the specified date and time, alternative arrangements may be made with the Privacy Officer;

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the Privacy Officer has determined that it would not unduly impede the right of access of the person making the request.

(iv) The amount of fees charged, if any (see §§ 9301.6 and 9301.7). (Fees are applicable only to requests for copies);

(v) The name, title, and telephone number of the SIGAR official having operational control over the record; and

(vi) The documentation required by SIGAR to verify the identity of the person making the request. At a minimum, SIGAR verification standards include the following:

(A) *Current or former SIGAR Employees.* Current or former SIGAR employees requesting access to a record pertaining to them in a system of records maintained by SIGAR may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SIGAR employee cannot be so identified by the official having operational control over the records, identification documentation will be required. The employee's common access card, annuitant identification, driver licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) *Other than current or former SIGAR employees.* Individuals other than current or former SIGAR employees requesting access to a record pertaining

to them in a system of records maintained by SIGAR must produce identification documentation of the type described in paragraph (b)(2)(vi)(A) of this section, prior to being granted access. The extent of the identification documentation required will depend on the type of record for which access is requested. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements will be specified in the system of records notices published by SIGAR pursuant to 5 U.S.C. 552a(e)(4).

(C) *Access granted by mail.* For records to be made accessible by mail, the Privacy Officer shall, to the extent possible, establish identity by a comparison of signatures in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to a person making a request of information under the FOIA, 5 U.S.C. 552. When, in the opinion of the Privacy Officer the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) *Unavailability of identification documentation.* If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to \$5,000. In addition, depending upon the sensitivity of the records to which access is sought, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate; e.g., statements of other individuals who can attest to the identity of the person making the request.

(E) *Access by the parent of a minor, or by a legal guardian.* A parent of a minor, upon presenting suitable per-

sonal identification, may act on behalf of the minor to gain access to any record pertaining to the minor maintained by SIGAR in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, upon the presentation of the documents authorizing the legal guardian to so act, and upon suitable personal identification of the guardian.

(F) *Granting access when accompanied by another individual.* When an individual requesting access to his or her record in a system of records maintained by SIGAR wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) *Granting access to individuals other than the subject of the record.* SIGAR will not disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, pursuant to the Privacy Act of 1974.

(H) *Denial of access for inadequate identification documentation.* If the official having operation control over the records in a system of records maintained by SIGAR determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the Privacy Officer prior to finally denying the individual access.

(vii) *Medical records.* The records in a system of records which are medical records shall be disclosed to the individual to whom they pertain in such manner and following such procedures as the Privacy Officer shall direct. When SIGAR in consultation with a physician, determines that the disclosure of medical information could have an adverse effect upon the individual to

whom it pertains, SIGAR may transmit such information to a physician named by the individual.

(viii) *Exceptions.* Nothing in this section shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of litigation.

§ 9301.15 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosures are the same as those for granting access to the records (including verification of identity) outlined in § 9301.14.

§ 9301.16 Requests for copies of records.

Rules governing requests for copies of records are the same as those for the granting of access to the records (including verification of identity) outlined in § 9301.14. (See also § 9301.19 for rules regarding fees.)

§ 9301.17 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by SIGAR must submit their request in writing in accordance with the procedures set forth herein unless this requirement is waived by the official having responsibility for the system of records. Records not subject to the Privacy Act of 1974 will not be amended in accordance with these provisions. However, individuals who believe that such records are inaccurate may bring this to the attention of SIGAR.

(b) *Procedures.* (1)(i) The request to amend a record in a system of records shall be addressed to the Privacy Officer. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record in accordance with the provisions concerning access to records as set forth in this paragraph, copies of previous correspondence between the individual and SIGAR will serve in lieu of a separate description of the record.

(ii) When the individual's identity has been previously verified pursuant to § 9301.14(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification has reappeared. If the individual's identity has not been previously verified, SIGAR may require identification validation as described in § 9301.14(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the Privacy Officer at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the desired proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit SIGAR to understand the basis for the request and to make an appropriate amendment to the record.

(iv) The request should also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SIGAR of personal information merely to permit verification of records, the burden of persuading SIGAR to amend a record will be upon the individual. The individual must furnish sufficient facts or credible documentation to persuade the official in charge of the system of the inaccuracy, irrelevancy, untimeliness, or incompleteness of the record.

(2) *SIGAR action on the request.* To the extent possible, a decision upon a request to amend a record will be made within 10 days, excluding Saturdays, Sundays and legal Federal holidays. In the event a decision cannot be made within this time frame, the individual making the request will be informed within 10 days of the expected date for a decision. The decision upon a request for amendment will include the following:

(i) The decision of SIGAR whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for the determination for any portion of the request which is denied.